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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/207,634	12/09/98	BERKE	J 1374-098
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PM82/0622

EXAMINER

AVERY, B

ART UNIT	PAPER NUMBER
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3618

DATE MAILED:

06/22/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/207,634

Applicant(s)
Berke et al.

Examiner
Bridget Avery

Group Art Unit
3618



☒ Responsive to communication(s) filed on Apr 10, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 5-14 and 20-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 5-10, 12-14, and 20-28 is/are rejected.

☒ Claim(s) 11 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. The restriction requirement in the present application divides the claims as Group I, claims 1-4 drawn to a carrier; Group II, claims 5-14 drawn to the combination of a cart and carrier; and Group III, claims 15-19 drawn to a method of transporting a bag.

The applicant has elected Group II.

An action on the merits of claims 5-14 and 20-28 follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5-7, 10, 24, 25, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Harmon et al. (US Patent 524,041).

Harmon et al. discloses in combination with a 2 wheeled cart, a detachable carrier mounted on an upper portion of the cart, the carrier having a pair of elongated jaws (10, 13), a

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means (8) for clamping the jaws to and releasing the jaws from an upper portion of a bag or sack, a handle (14) attached to at least one of the jaws (13), and, the cart has a lower shelf (5) for supporting the bag or sack.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-8, 10, 12-14, 20, 24, 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Patent 4,448,434) in view of Harmon et al. ('041).

Anderson discloses in combination with a 2 wheeled cart (10), a detachable carrier (shown as 74, 80, 82) mounted on an upper portion of the cart (10), the carrier having a pair of elongated jaws (80, 82), a means (84) for clamping the jaws (80, 82) to and releasing the jaws (80, 82) from an upper portion of a bag or sack (83), and, the cart (10) has a lower shelf (36) for supporting the bag or sack (83). Note, the top surface of jaw (80) and the bottom surface of jaw (82) is a "gripping surface" as broadly claimed by applicant.

Harmon et al. discloses a handle (14) attached to at least one jaw (13).

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Based on the teachings of Harmon et al., it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the elongate members (82) to include handles mounted to the top surface of each to facilitate ease in releasing a bag or sack. With respect to claims 12 and 14, the use of telescoping tubes is conventional in the cart and hand truck industry, and the use of such to make a device vertically adjustable would be obvious to one of ordinary skill in the art. With respect to claim 13, the pivot (84) is functionally equivalent to the applicant's claims bolt and thumb nut.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ('434) and Harmon et al. ('041) as applied to claim 5 above, and further in view of Hsieh et al. (US Patent 5,591,037).

The combination of Anderson and Harmon et al. disclose the features described above.

The combination of Anderson and Harmon et al. fail to an outwardly adjustable shelf.

Hsieh et al. discloses a luggage cart having a shelf with telescoping tubes.

Based on the teachings of Hsieh et al., it would have been obvious to one of ordinary skill in the art to modify the combination of Anderson and Harmon et al. and provide a shelf adjustable with telescoping tubes to support bags of various sizes.

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7. Claims 21-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ('434) and Harmon et al. ('041) as applied to claim 5 above, and further in view of White (US Patent 5,621,950).

The combination of Anderson and Harmon et al. disclose the features described above.

The combination of Anderson and Harmon et al. fail to disclose triangular outward extending tabs.

White discloses a spring biased paper clip having outward extending tabs for gripping paper.

Based on the teachings of White, it would have been obvious to one of ordinary skill in the art, at the time of the applicant's invention, to modify the combination of Anderson and Harmon et al. to include outward extending tabs, of any shape, on the gripping surfaces of the jaws to facilitate ease in securing a bag or sack within the jaws.

Allowable Subject Matter

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yang shows a foldable cart.

Holtz shows a luggage cart.

Eads et al. shows a cart with molded bag supporting structures.

Taylor shows a folding two-wheeled hand truck.

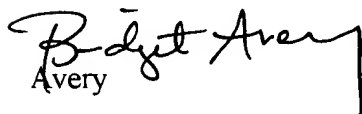
Taylor shows a collapsible refuse bag cart.

Preisinger shows a bag holder.


Kuvik shows a mail bag protector.

Takahashi shows a clamping device.

10. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number (703) 308-2086.


Avery

June 17, 2000


BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
6/19/00